

## **Assembly Concurrent Resolution No. 19**

### **RESOLUTION CHAPTER 104**

Assembly Concurrent Resolution No. 19—Relative to Japanese American state employees.

[Filed with Secretary of State September 9, 2013.]

#### **LEGISLATIVE COUNSEL’S DIGEST**

ACR 19, Pan. Japanese American: discrimination: apology.

This measure would acknowledge that the State of California made a grievous mistake that injured loyal employees who were dedicated to serving the people of California when it dismissed over 300 Americans of Japanese ancestry as a result of Senate Concurrent Resolution 15 (SCR 15) of 1942 by Senator John Swan. This measure would resolve to issue a public apology to the state civil service employees who were dismissed.

WHEREAS, In early 1942, over 300 Americans of Japanese ancestry, all of whom met the state civil service requirement of American citizenship, were employed by the State of California; and

WHEREAS, On January 19, 1942, the California State Legislature adopted Senate Concurrent Resolution 15 (SCR 15) authored by Senator John Swan; and

WHEREAS, SCR 15 authorized the State Personnel Board to “take every proper means to prevent anyone securing a position on the eligible list of the state civil service or from being certified to a civil service position in the state service who is not loyal to the United States and to further make such rules as may be necessary to provide for the dismissal from the service of such persons as may be proved to be disloyal to the United States of America in this present war”; and

WHEREAS, On January 27, 1942, a State Personnel Board staff analysis opined that the board could do little in response to SCR 15, and that no blanket discharge of employees on the ground of dual citizenship, or nationality of parents was possible. The board was aware it would not be justified in ordering dismissal of an individual without “evidence of acts, statements, or courses of conduct tending to show disloyalty”; and

WHEREAS, On January 30, 1942, the State Personnel Board commenced an investigation into the loyalty of persons applying to take an exam, on eligibility lists for state jobs, and employed by the State of California; and

WHEREAS, Japanese Americans were the focus of investigations by the State Personnel Board, and the board prepared lists of identified employees that contained only Japanese surnames; and

WHEREAS, No other group of employees was investigated; and

WHEREAS, On February 5, 1942, Mike Masaoka, National Secretary for the Japanese American Citizens League, appeared before the State Personnel Board and was assured that there would be no summary or arbitrary dismissals; and

WHEREAS, Earl Warren, Attorney General for the State of California, wrote on February 7, 1942, "It is my conclusion that said order [SCR 15], discriminating as it does against naturalized citizens and against American born citizens of the first generation, violates the civil liberties of citizens as guaranteed by the Constitution of the United States and of this State and is in conflict with our Civil Service Act"; and

WHEREAS, On February 27, 1942, the California Board of Equalization dismissed all employees of Japanese ancestry; and

WHEREAS, Over the following weeks, every employee of Japanese ancestry was terminated from state employment; and

WHEREAS, The State Personnel Board adopted a resolution that read:

"Whereas, a state of war does exist between the United States of America and the Axis Powers, Germany, Italy, Japan, and others; and

Whereas, certain employees of the State Personnel Board are of Japanese ancestry and the morale among other employees of said Board has been adversely affected by their being required to be associated in their work with these employees of Japanese ancestry, and

Whereas, there is a general lack of confidence on the part of the public and State employees in the loyalty of many of said employees of Japanese ancestry, and

Whereas, this Board is convinced that the welfare of the United States of America, and a successful conclusion of the war can best be achieved by safeguarding the public and its property from any possible espionage or fifth column activities such as were employed in the attack on Pearl Harbor, and participation in such activities can be prevented by separating those persons of Japanese ancestry now employed by this Board by separating them from State service,

Now, therefore be it resolved, that the following named employees ... are hereby immediately suspended, and

Be it further resolved that the Secretary be and he is hereby ordered to prepare charges against said persons pursuant to the law."

WHEREAS, Over 314 employees with Japanese surnames were terminated; and

WHEREAS, Seasonal and probationary employees did not have a right of appeal, and only permanent employees could file an appeal of the dismissal; and

WHEREAS, Sixty-three employees were able to file an appeal, and these employees retained James C. Purcell and William E. Ferriter to represent their case against the State Personnel Board; and

WHEREAS, All employees were dismissed on the same charges without regard to individual job performance, and as a result, many charges were not applicable to individuals employees; and

WHEREAS, Charges A to G, inclusive, against employees included allegations that employees were citizens of the Empire of Japan and subjects of the Emperor of Japan, employees could read and write Japanese and subscribed to Japanese newspapers, employees attended Japanese schools that taught the Japanese language, employees were members of Japanese organizations, employees reduced the morale and efficiency of public service employees, employees has failed to report that they had attended Japanese schools, and military zones restricted the movement of employees and prohibited employees from properly performing their duties as state employees; and

WHEREAS, On May 27, 1942, the State Personnel Board filed Supplemental Charges H and I that stated that employees were confined by the federal government and could not carry out their duties, and alleged that the employees were dual citizens of Japan; and

WHEREAS, In response to the supplemental charges, James C. Purcell filed a case on behalf of Mitsuye Endo, a California state employee, before the Circuit Court of Appeals, petitioning for her release from federal confinement; and

WHEREAS, In response to the possibility that the constitutional rights of employees could be raised, the Secretary to the State Personnel Board suggested that the board exercise its “police power” to protect the public order, safety, health, morals and welfare from Japanese persons; and

WHEREAS, On December 18, 1944, the United States Supreme Court decided in favor of Mitsuye Endo, and state employees continued their appeal to regain their jobs; and

WHEREAS, On September 4, 1946, a hearing was held before the referee of the State Personnel Board regarding the charges; and

WHEREAS, The Attorney General’s office indicated at the hearing that the employees had been the most thoroughly investigated people in the history of this country, and that nothing had been disclosed to substantiate the charges in any way; and

WHEREAS, The state could not produce any proof, and the case was submitted as to the charges without any evidence; and

WHEREAS, On September 28, 1946, employees were sent telegrams indicating that they had only 10 days to report to work and be reinstated to their jobs; and

WHEREAS, It was not possible for employees, who were scattered across the country as a result of their federal confinement, to return within the 10-day window, and only a handful of employees were re-employed; and

WHEREAS, In August 1947, the State Personnel Board provided backpay only for the period between the date of suspension and the date of the employees confinement by the federal government; and

WHEREAS, Employees were not compensated by the state or federal government for their wage losses suffered over the four and one-half years that they were denied their jobs; and

WHEREAS, Assembly Bill 2710 authored by Assembly Member Patrick Johnson was signed into law on August 17, 1982, by Governor Jerry Brown; and

WHEREAS, Assembly Bill 2710 provided \$5,000 as symbolic compensation for the unfair dismissal of Japanese American employees during World War II; and

WHEREAS, Assembly Bill 2710 did not provide an apology for the unjust actions of the State of California, the California State Legislature, or the California State Personnel Board; now, therefore, be it

*Resolved by the Assembly of the State of California, the Senate thereof concurring,* That the State of California made a grievous mistake that injured loyal employees who were dedicated to serving the people of California; and be it further

*Resolved,* That the Legislature issue a public apology to the state civil service employees who were dismissed as a result of SCR 15; and be it further

*Resolved,* That the Chief Clerk of the Assembly transmit copies of this resolution to the author for appropriate distribution.